

Protest of)	Date: March 16, 1990
)	
GINNY BAKER)	
)	
Solicitation No. 800-25-88)	P.S. Protest No. 90-04

DECISION

Ginny Baker protests the contracting officer's award of a contract on June 10, 1988, to the low bidder, Barbara Ann Buckner, under Solicitation No. 800-25-88 issued by the Denver Transportation Management Service Center. The solicitation requested bids surface transportation and box delivery of mail on a route between Franktown and Russelville, CO. The contract period of service is July 1, 1988, to June 30, 1992.^{1/}

In her protest, dated January 16, 1990, and received by this office on January 22, Ms. Baker alleges that the contracting officer erred in awarding the contract to Ms. Buckner under the referenced solicitation. This allegation is based for on two general grounds--Ms. Buckner's nonresponsibility at the time of contract award and her subsequent violation of applicable regulations in performance of the contract. With regard to the first ground, Ms. Baker alleges that Ms. Buckner was not a responsible contractor pursuant to Postal Contracting Manual (PCM) 19-122 at the time of award since she submitted an inaccurate statement of her assets and liabilities prior to award.

With regard to the second ground relating to contract performance, Ms. Baker alleges Ms. Buckner is in violation of PCM 19-124 which delineates the responsibilities of contractor's providing service on postal transportation services contracts. Specifically, Ms. Baker avers that Ms. Buckner, as her own employee, has not proven to be of good character, reliable and trustworthy and that Ms. Buckner's traffic record indicates her driving of a motor vehicle would be hazardous. Additionally, Ms. Baker alleges that Ms. Buckner is not easily contacted and therefore is in violation of PCM 19-123 (c) which requires that a contractor provide either personal or representative supervision over performance

^{1/} Ms. Baker also alleges, inter alia, that a renewal of the awarded contract in 1992 would be inappropriate; that Ms. Buckner has not been easily contacted during the term of the contract as required by applicable regulations; that Ms. Buckner's driving record makes her driving hazardous; and that Ms. Buckner should be suspended pursuant to Procurement Manual (PM) 3.3.2 due to her conduct during the term of the contract. As developed below, none of these matters are within the jurisdiction of this office.

of a contract so as to be easily accessible in the event of emergencies.

The contracting officer in his report states that he considers this protest untimely. He notes that the contract was awarded on June 10, 1988, and that initial questions over Ms. Buckner's responsibility were raised by Ms. Baker in a November 20, 1989 letter to him. He points out that this protest, filed subsequent to that letter, is untimely since it was filed more than 15 working days after contract award.^{1/}

Discussion

A matter of initial concern in any protest is whether the protest is timely. The timeliness requirement is jurisdictional. Without jurisdiction we cannot consider the merits of any issue raised. Service America Corporation, P.S. Protest No. 87-119, December 15, 1987; Bessemer Products Corporation, P.S. Protest No. 86-05, March 26, 1986; Poveco, Inc., P.S. Protest No. 85-43, October 30, 1985.

With regard to Ms. Baker's challenge to the contracting officer's affirmative determination of Ms. Buckner's responsibility, the protest is untimely. PCM 2-407.8 d (3) states,

...protests must be received not later than 10 working days after the information on which they are based is known or should have been known, whichever is earlier; provided that no protest will be considered if received more than 15 working days after award of the contract in question.

The record here reflects that contract award was made June 10, 1988, and Ms. Baker's protest was received January 22, 1990--well past 15 days after award.

As to the protester's allegations that Ms. Buckner is violating various regulations applicable to postal transportation contractors, we lack jurisdiction over those claims since compliance with applicable regulations during contract performance is a matter of contract administration and therefore outside our bid protest jurisdiction. See Sea-Land Service, Inc., P.S. Protest No. 78-16. June 6, 1978.

The protest is dismissed.

William J. Jones
Associate General Counsel
Office of Contracts and Property Law

[checked against original JLS 5/26/93]

^{2/} The contracting officer cites the now applicable PM section, PM 4.5.4 d. instead of PCM 2.407.8 d (3) which is applicable to this protest.